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REPORT AND RECOMMENDATIONS MADE BY THE "D1" PANEL OF COMMISSIONERS CONCERNING THE SEVENTH INSTALMENT OF INDIVIDUAL CLAIMS FOR DAMAGES ABOVE USD 100,000 (CATEGORY "D" CLAIMS)

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Introduction

1. This is the tenth report to the Governing Council of the United Nations Compensation Commission (the "Commission") submitted pursuant to article 38(e) of the Provisional Rules for Claims Procedure (the "Rules"), by the "D1" Panel of Commissioners (the "Panel"), being one of two Panels appointed to review individual claims for damages above USD 100,000 (category "D" claims). 1/ This report contains the determinations and recommendations of the Panel in respect of the seventh instalment, comprising 602 category "D" claims, submitted to the Panel by the Executive Secretary of the Commission pursuant to article 32 of the Rules on 28 January 2000.

2. Almost all 602 claims in the instalment contain loss types for which methodologies have already been developed ("application claims"). 2/ The Panel began its review of the seventh instalment on 28 January 2000. In addition to regular communications among the Commissioners and with the Secretariat, the Panel held meetings at the Commission's headquarters in Geneva to consider the claims on the following dates: 27-29 January 2000, 6-8 March 2000, 1-3 May 2000, 3-4 July 2000 and 31 July-3 August 2000. It also met with the "D2" Panel in January 2000.

I. BACKGROUND

A. Background information

3. The factual background relating to Iraq's invasion and occupation of Kuwait that was taken into account by the Panel in reviewing claims in the seventh instalment is set out in detail in its Reports for part one and part two of the first instalment of category "D" claims. 3/

4. The Panel has taken into consideration additional relevant material, including information accompanying the submission of these claims provided by the Executive Secretary pursuant to article 32 of the Rules. The Panel has also taken into account information and views presented by the Government of Iraq and by Governments that have submitted claims in response to the reports submitted to the Governing Council by the Executive Secretary in accordance with article 16 of the Rules.

5. Further, in accordance with article 36 of the Rules, the Panel has been assisted by expert consultants in the valuation of claims for D4(personal property) losses and D7(real property) losses.

B. General legal framework

6. The general legal framework for the resolution of category "D" claims is set out in chapter V of the Panel's Report for part one of the first instalment.

C. Applicable evidentiary standard

7. The issue of the evidentiary standard to be applied in reviewing category "D" claims was addressed by the Panel in chapter VI of the Report for part one of the first instalment and chapter II of the Report for part two of the first instalment. 4/ The Panel's recommendations in these two reports were approved by the Governing Council in decisions 47 and 49 respectively. 5/ As with previous instalments, the Panel has reviewed the claims in the present instalment and made its recommendations by assessing documentary and other appropriate evidence, as well as by balancing the interests of claimants who had to flee a war zone with the interests of the Government of Iraq which is liable only for direct loss, damage or injury caused as a result of Iraq's invasion and occupation of Kuwait.

II. NEW ISSUES ARISING IN THE APPLICATION CLAIMS

8. Some of the application claims in this instalment raise new issues that were not dealt with in any of the Panel's previous reports. Wherever claims give rise to new issues not considered in previous instalments, the Panel ensures that these are resolved so as to be consistent with established methodologies. These new issues and the Panel's recommendations thereon are set out below.

A. D1(money) issues: claims for relocation expenses

9. Two claims were submitted for relocation expenses incurred in transporting personal effects from Kuwait after it was liberated. The expenses were incurred in December 1991 and August 1994. Both claimants were on vacation at the time of Iraq's invasion and decided not to return to Kuwait after it was liberated. They later arranged to ship their belongings, which had remained in Kuwait during the period of Iraq's invasion and occupation. One claimant who had initially claimed personal property losses, wrote to the secretariat withdrawing that claim and requesting that the reduced claim for transportation of personal effects be considered in its place. The Panel notes that in both cases the claimants had acted to reduce their claimed losses, and recommends that both claimants be compensated for the relocation losses.

B. D6(loss of income) issues: authorization to claim

10. A claimant sought compensation for his wife's salary losses without any authorization from her to submit the claim. The Panel is of the view that in such cases, generally no compensation in respect of the spouse's D6(loss of income) claimed losses will be recommended. In the present case, the wife was mentioned as a family member on the "DID.2" page of the claim form. As part of the article 34 claims development process, a notification was sent to the claimant requesting additional information and documentary evidence in respect of various deficiencies in his claim, including proof of his authority. The claimant's wife responded to this notification, and provided a general statement describing the losses that she and her husband had suffered as a result of the invasion. Although no specific response was received to the Panel's request for an affirmation from the wife that the claimant was authorized to put forward this claim for salary losses on her behalf, the Panel finds that the general statement of loss submitted by the claimant's wife is sufficient confirmation of her husband's authority to make the claim on her behalf. The Panel therefore recommends that the claimant receive, on her behalf, the compensation recommended in respect of his wife's salary losses.

C. D7(real property) issues

1. Authorization to claim

11. In some cases in respect of real property held by a number of owners, the claimants submitted the claims on behalf of the other owners. In some instances, the claimant did not submit proof that he or she was authorized to claim on behalf of all the owners. The Panel considers that it is appropriate to distinguish between claims for real property losses that are made on behalf of family members (for this purpose a "family" is limited to spouses, children and parents), from claims that are made on behalf of owners who are not members of a "family" so defined.

12. In the former case, the claims must be accompanied by an authorization from each adult family member in favour of the claimant. This authorization may take the form of an informal statement, signed or thumb-printed by the family member concerned. In the latter case, a power of attorney from the other owners is required. Where such authorization or power of attorney has not been provided in the original claim submission, a request for this authority is made to the claimant by the secretariat. The Panel recommends that where the required authority is still not provided, the claimant should only receive compensation for losses corresponding to his or her percentage ownership interest in the subject property.

2. Real property in the Al Zoor Area

13. The Panel reviewed some claims related to real property situated in the Al Zoor area between Kuwait and Saudi Arabia which is under the joint jurisdiction of the Governments of both Kuwait and Saudi Arabia. Records in respect of registration of title to real property in this area are maintained by the Neutral Zone Municipality in Saudi Arabia and the Real Estate Registration Department of the Ministry of Justice in Kuwait. After reviewing the nature of the real properties and the claimed losses, the Panel finds it appropriate to apply to these claims the legal and valuation methodology established for real property situated in Kuwait. 6/ In accordance with the established methodology, verification of title to the real properties in the area was obtained from the authorities mentioned above.

3. Increased costs of construction

14. A claim was submitted for losses arising from an increase in the post-liberation cost of construction. The claimant had entered into a contract for the construction of a villa just prior to Iraq's invasion of Kuwait and was obliged to re-negotiate the contract for a higher price after the end of the occupation period. The pre-invasion and post-liberation contracts for construction showed an increase in the contract price, but were not sufficiently detailed to allow a breakdown of the specific areas in which the increase had occurred.

15. The Panel has previously determined that claims for contract interruption losses are compensable only to the extent that a demonstrable link is established between the loss and at least one of the following factors which the Panel has found to be directly linked to Iraq's invasion and occupation of Kuwait:

(a) site restoration costs;

(b) additional transportation costs; and

(c) additional insurance costs. 7/

16. As the claimant has established an increase in the construction cost, but has not clearly distinguished the precise portion of the increased costs attributable to these three factors, the Panel recommends that a discount factor be applied to the amount claimed.

4. Temporary premises

17. Some claimants had to rent temporary premises while their own properties were undergoing repair, or while construction of their own properties which had been interrupted during the occupation period was completed after Kuwait's liberation. Taking into account a previous

decision by the "F3" Panel on a similar issue, 8/ the Panel determines that the cost of such temporary premises is compensable in principle, and may be awarded for a reasonable period after Kuwait's liberation. In determining this period, the Panel examines the nature and extent of damage caused to the real property in question as well as the time likely to be necessary to effect site restoration, repairs, and/or to complete construction.

5. Claimants with no ownership or leasehold interest in real property

18. Two claims were submitted in respect of real property in which the claimant did not have the usual ownership or leasehold interest. One claimant had constructed "stables" (ten horse sheds and an annex comprising four bed-rooms, a kitchen and bathrooms) on land belonging to an equestrian society of which he was a member. The other claimant had constructed a "beach cabin" on land belonging to two friends. Claimed losses pertain to expenditure for repairs in respect of the damaged properties, and both claimants submitted documentary evidence to support such expenditure. Both claimants submitted statements from the respective owners of the real properties confirming the fact that the structures in question had been constructed by the claimants, that the claimants continued to enjoy the use of these real properties, and that the owners had no objection to the claims in question being filed before the Commission.

19. As the claimants have satisfactorily established a continued interest in the use of the real properties in question through the submission of affidavits from the owners of the real properties and through the submission of documentary evidence supporting repairs they effected, the Panel recommends that compensation in respect of the claimed losses be awarded.

6. Claimants paying instalments in respect of real property as at 1 August 1990

20. Two claims for real property losses were submitted by claimants who were residing in houses belonging to the Government of Kuwait's Public Housing Authority for several years prior to the invasion. They were making payments of fixed monthly instalments in respect of the properties in question. The Government of Kuwait continued to own the properties as at 1 August 1990, and title to the properties only passed to the claimants after 2 March 1991 upon payment of the full purchase price. A statement from the Public Housing Authority establishes that such property is given to the claimants irrevocably as from the date of commencement of residence.

21. The Panel finds that the fact of payment of instalments in respect of the properties in question and the statement from the Public Housing Authority sufficiently establish the claimants' interest in the real properties as at 1 August 1990, and therefore recommends that compensation be awarded in respect of the claimed losses.

7. Valuation issues

22. The Panel has previously established that the compensation period for claims for loss of rental income and loss of anticipated rental income is limited to 12 months, unless exceptional circumstances exist that would warrant an extension of this period. 9/ A claim was submitted for rental losses in respect of property situated on Failaka Island for a period longer than 12 months. The claimant states that numerous mines had been placed on the Island during the occupation period, and that the Government of Kuwait had decided that the Island remain uninhabited. The Panel finds that as the continuing loss of rental income is due to the Government of Kuwait's decision to keep the island uninhabited, there is no sufficient reason to extend the period of compensation beyond 12 months.

23. A claim was submitted for estimated cost of repairs in respect of a villa that the claimant stated he originally wished to lease out, but which he decided to demolish in 1992 given the depressed state of the rental market in Kuwait after the liberation. The claimant states that he intended to clear the site for development "at some time in the future". As part of the claims development process, claimants are requested to confirm whether they have undertaken the repairs in respect of which the claim is made. The valuation methodology established by the Panel applies a discount factor to claims for the estimated cost of repairs where claimants do not provide details of actual costs incurred or where the explanation provided by a claimant is considered by the Panel to be unsatisfactory. The purpose of the discount factor is to take into account the risk of overstatement of loss. 10/ The Panel considers the explanation regarding the depressed state of the rental market cannot be accepted for an unlimited period, and therefore finds no sufficient reason to waive application of the discount factor.

24. In another claim for estimated cost of repairs, the explanation provided by the claimant for not instituting repairs was that the real property in question had been the subject matter of a legal dispute concerning its boundaries. The Panel finds that the explanation does not constitute a sufficient reason to waive application of the discount factor in this case given the substantial effluxion of time.

III. PANEL DETERMINATIONS ON OTHER CLAIMS IN THE SEVENTH INSTALMENT

25. At each of its meetings in Geneva, the Panel extensively reviewed individual claims, examined the application of the methodologies developed by the Panel, and satisfied itself that the appropriate methodologies have been applied to the claims in the instalment.

A. Jurisdictional failures

26. Several claims for losses incurred outside the period 2 August 1990 to 2 March 1991 (the "jurisdictional period") were submitted. In order for

these losses to be compensable, a direct causal connection with Iraq's invasion and occupation of Kuwait must be established. The Panel considered a claim for departure, personal property and motor vehicle losses that were incurred at the border between Iraq and Jordan in October 1991. The claimant had been resident in Kuwait through the occupation period, and departed Kuwait to relocate to Jordan several months after liberation. The claimant transited through Iraq on his way to Jordan, and it was while he was crossing this border that he was robbed. No evidence was provided to establish a direct causal link between the losses claimed and Iraq's invasion and occupation of Kuwait. The Panel therefore recommends that no compensation be awarded in respect of this claim.

27. A claim was filed for personal property and motor vehicle losses by an individual who was resident in Iraq and who had remained there throughout the period of Iraq's invasion and occupation of Kuwait. The claimant departed Iraq on 3 March 1991, leaving behind all his property. He states that he is not aware of what happened to this property after his departure, and did not respond to a request from the secretariat that he must show how his claimed losses resulted directly from Iraq's invasion and occupation of Kuwait. In the absence of any evidence or explanation linking the asserted losses directly to Iraq's invasion of Kuwait, the Panel recommends that no compensation be awarded in respect of this claim.

28. In another claim for motor vehicle losses, the claimant drove his motor vehicle out of Kuwait during the occupation period to Iraq, where it was left in the grounds of an Embassy in Baghdad for use by Embassy staff. The Embassy staff used the vehicle from November 1990 to January 1991, at which time the Embassy was temporarily closed and the vehicle abandoned. The claim includes costs incurred by the Embassy staff in maintaining and using the vehicle from November 1990 to January 1991, costs associated with shipping the vehicle to Oman where the claimant was residing in September 1992, and maintenance costs incurred during the course of the shipment process and in Oman. The claimant states that he had to reimburse the Embassy staff for costs incurred during the period they used the vehicle. The Panel finds that the claimed losses are too remote from Iraq's invasion and occupation of Kuwait, and therefore recommends that no compensation be awarded.

29. A claim was submitted for personal property losses arising from a legal dispute in Kuwait that centred around the claimant's non-payment of a debt. In a post-liberation judgment a Kuwaiti court found in favour of the creditor and ordered the immediate seizure of the claimant's property pending payment of the debt. The claimant asserted that had he been present in Kuwait during the period of the occupation, he would have been in a better position to defend himself before the court and thereby avert the loss. The Panel recommends that no compensation be awarded in respect of this claim as it was not for direct losses resulting from Iraq's invasion and occupation of Kuwait.

30. A claim was submitted for losses arising from an inability to maintain mortgage payments during the period of Iraq's invasion and occupation of Kuwait in respect of a property in the United States of America. The Panel finds that the cause of the claimed loss is too remote from Iraq's invasion and occupation of Kuwait, and therefore recommends that no compensation be awarded.

B. Claims not meeting formal requirements

31. The Panel considered a number of claims where claimants submitted only claim forms not accompanied by a statement describing the claimed losses or any supporting documentary evidence. No response was received to informal and formal article 15 notifications sent by the secretariat to these claimants. The Panel recommends that no compensation be awarded in respect of these claims.

C. D4(personal property) failures

32. The personal property methodology established by the Panel in respect of invalid Kuwaiti dinar bank notes requires submission of the original bank notes for compensation to be paid in respect of the loss. 11/ The Panel considered claims for invalid Kuwaiti dinar bank notes where claimants had not complied with this methodology requirement and recommends that no compensation be awarded in respect of such claimed losses.

D. D5(securities) failures

33. The Panel considered a claim for losses arising from ownership of shares in two publicly traded companies that were alleged to have gone out of business as a result of Iraq's invasion and occupation of Kuwait. The claimant submitted copies of the share certificates, as well as affidavits from third parties which stated that the companies in question no longer operated. However, information received from The Government of Kuwait's Public Authority for Assessment of Compensation for Damages Arising From Iraqi Aggression ("PAAC") confirmed that these companies were incorporated outside Kuwait, and that they continued to operate following the liberation of Kuwait. The information received from PAAC also indicated that one company faced severe financial difficulties commencing several years prior to the invasion. The Panel recommends that no compensation be awarded in respect of these claimed losses as the claimant has not established that the companies in question failed to resume operation after Kuwait was liberated, and that such failure was caused directly by Iraq's invasion and occupation of Kuwait. 12/

34. The claimant also sought compensation in respect of a loan made to a company in Kuwait prior to the invasion. The claimant submitted copies of the original loan document, as well as affidavits from third parties which stated that the company in question no longer operated after Kuwait was liberated. Information received from PAAC confirmed that the company, while

facing financial difficulties commencing a few years prior to Iraq's invasion, continued operations after Kuwait was liberated, and that it had filed a claim before the Commission in category "E". The Panel recommends that no compensation be awarded in respect of these claimed losses as the debtor and debt in question continue to exist.

35. Compensation in respect of losses arising from debts owed to him by two businessmen in Kuwait as well as by a private business concern in Kuwait were sought by the same claimant. He submitted copies of cheques made out in his name as supporting documentary evidence of the debts. The Panel notes that these cheques had become stale prior to the invasion, and that the period established under Kuwaiti law for filing suit against the individuals in question had also elapsed prior to the date of Iraq's invasion of Kuwait. The Panel finds that there is no direct causal link between these losses and Iraq's invasion and occupation of Kuwait and therefore recommends that no compensation be awarded in respect of the losses claimed.

E. D6(loss of salary) failures

36. Some claimants submitted documentary evidence of employment dating from several years prior to Iraq's invasion of Kuwait. The Panel recommends that no compensation be paid in respect of salary losses where there is no evidence of employment at the time of Iraq's invasion of Kuwait.

F. Other

37. The Panel defers its consideration of several claims in the seventh instalment. Nine claims contain business losses and the D8/D9(business loss) methodology is yet to be finalized. In view of their particular circumstances, four claims and a portion of one claim are deferred for additional information. One claimant in the seventh instalment who had initially filed identical claims through two submitting entities withdrew one of his claims.

38. The Panel also considered a number of claims for claim preparation costs, including legal and loss adjusting fees. In a letter dated 6 May 1998, the Panel was notified by the Executive Secretary that the Governing Council intends to resolve the issue of claim preparation costs at a future date. Accordingly, the Panel takes no action with respect to the claims for such costs.

IV. CROSS CATEGORY ISSUES

39. Recommended awards in respect of claims in this instalment are reported net of deductions of "A", "B" and "C" approved awards made to the same claimants. 13/

V. RECOMMENDATIONS

A. Awards by submitting entity

40. The annex hereto lists the awards recommended by the Panel for each Government and international organization that has claimants included in the seventh instalment. Each Government and international organization will be provided with a confidential list containing the individual recommendations made in respect of its claimants. As will be seen from the annex, the Panel recommends a total of USD 131,692,078.66 against a total claimed amount of USD 207,925,598.92.

B. Interest and exchange rates

41. A number of claimants in the instalment filed claims in category "D" specifically for interest on the value of their category "C" or "D" claims. As noted by the Panel in its Report for part one of the first instalment, interest will be awarded in accordance with Governing Council decision 16. 14/

42. For purposes of calculating recommended amounts, the Panel converts currencies into United States dollars in accordance with the rates set out at paragraphs 61-63 of its First Report.

C. Corrections to previously reported claim awards

43. In accordance with procedures set out in article 41 of the Rules for the correction of award amounts previously reported in an instalment and approved by the Governing Council, the Panel recommends approval of the corrected amounts as described in the following paragraphs. 15/ A confidential listing containing a revised breakdown of amounts in respect of individual claimants will be provided to the submitting entities affected.

1. Part one of the first instalment correction

44. The UNCC Claim number in respect of one claim approved in the Report for part one of the first instalment was incorrectly reported due to a transposition of labels belonging to another claim. An amended report showing the correct UNCC Claim Number will be sent to the submitting entity concerned. Confirmation has been received from the submitting entity that payment was made to the correct claimant, despite the error in the reporting of the UNCC Claim Number.

2. Deduction of end of term indemnities

45. At paragraphs 26-28 of the "Report and Recommendations Made by the Panel of Commissioners Concerning the Third Instalment of Individual Claims For Damages Over US$100,000 (Category 'D' Claims)", 16/ the Panel reported that following the receipt of information from the Government of Kuwait

concerning the payment of end of term indemnities to persons who were employed in Kuwait, such payments should not be deducted from recommended awards for D6(loss of income) claims. In its "Special Report and Recommendations Made by the Category 'D' Panel of Commissioners Concerning Adjustments to Approved Claimed Awards", 17/ the Panel reported corrections to certain claims reversing the deduction of the end of term indemnity in each case. Pursuant to a request from the Government of Kuwait made under article 41 of the Rules, it was noted that one claim filed by the Government of Kuwait where the end of term indemnity had been deducted was left out and is now included for correction.

3. Deduction of category "B" awards

46. Following a review of certain awards for D3(death) claims at the request of the Government of Kuwait made under article 41 of the Rules, it was noted that deductions of awards made in category "B" had not been applied in the case of two claims approved in part one of the second instalment and in the third instalment of category "D" claims, respectively. In each case an amount of USD 2,500 should have been deducted.

4. Part one of the fourth instalment corrections

47. Two claims approved in part one of the fourth instalment require correction, pursuant to representations made by the claimants through their respective Governments for corrections under article 41 of the Rules. Upon further review of the explanations given by the claimants of the evidence submitted with their claims, it was clear that in one claim, the claimant should have received an award for D4(personal property) losses, while in another claim, the claimant should have received an award for D6(loss of income). In a third claim approved in the same instalment, it was noted during a check of the UNCC database that the claimant did not receive an award for D4(motor vehicle) losses due to data entry error.

5. Corrections arising out of changes to category "C" awards deducted from related category "D" awards

48. Two claims approved in part one of the second instalment, one claim approved in the third instalment and four claims approved in part one of the fourth instalment of category "D" claims require correction as a result of article 41 corrections applied to the related category "C" awards. 18/ The original category "C" awards were deducted from the awards for related losses in category "D". Article 41 corrections to the category "C" claims require that a revision be made to the awards for the related losses in category "D".

6. Changes to submitting entity awards by instalment

49. Pursuant to the changes to the recommended awards for the claims noted above in paragraphs 44-48, the consequential recommended changes to the submitting entity awards by instalment are as follows:

Instalment	Submitting entity	Previous recommended award (USD)	Corrected recommended award (USD)
2/1	Italy	37,370.20	14,948.05
2/1	Jordan	1,114,643.52	1,103,866.01
2/1	Kuwait	1,697,556.67	1,726,198.07
3	Kuwait	2,399,963.86	2,399,171.77
4/1	Belgium	700.00	8,284.00
4/1	Canada	1,697,291.90	1,698,329.90
4/1	France	769,356.83	760,736.63
4/1	Spain	6,228.00	13,340.68
4/1	Sweden	895,837.98	855,237.64

D. Submission through the Executive Secretary to the Governing Council

50. The Panel respectfully submits this report pursuant to article 38(e) of the Rules, through the Executive Secretary to the Governing Council.

Geneva, 31 August 2000

(Signed) R.K.P. Shankardass
Chairman

(Signed) H.M. Joko-Smart
Commissioner

(Signed) M. C. Pryles
Commissioner

Notes

1/ S/AC.26/1992/10.

2/ In the first instalment of category "D" claims, the Panel developed methodologies for the following loss types: D1(money); D1(mental pain and anguish ("MPA"); D3(death); D4(motor vehicles); D6(loss of income); D10(payment and relief to others); and D10(other). A full description of the methodologies is set out at paragraphs 103-380 of the "Report and Recommendations Made by the Panel of Commissioners Concerning Part One of the First Instalment of Individual Claims for Damages Above US$100,000 (Category 'D' Claims)" (S/AC.26/1998/1). The Panel developed methodologies for the following loss types in part one of the second instalment: D2(personal injury) and D5(loss of bank accounts, stocks and other securities). These methodologies are described in the "Report and Recommendations Made by the Panel of Commissioners Concerning Part One of the Second Instalment of Individual Claims for Damages Above US$100,000 (Category 'D' Claims)" (S/AC.26/1998/11), at paragraphs 41-115. The Panel developed the methodology for D4(personal property) losses in part two of the second instalment. This methodology is described in the "Report and Recommendations Made by the Panel of Commissioners Concerning Part Two of the Second Instalment of Individual Claims for Damages Above US$100,000 (Category 'D' Claims)"(S/AC.26/1998/15),at paragraphs 30-57. The Panel developed the methodology for D7(real property) losses in part two of the fourth instalment. This methodology is described in the "Report and Recommendations Made by the Panel of Commissioners Concerning Part Two of the Fourth Instalment of Individual Claims for Damages Above US$ 100,000 (Category 'D' Claims)" (S/AC.26/2000/11), at paragraphs 30-68.

3/ See in particular chapter II of the First Report and chapter IV of the "Report and Recommendations Made by the Panel of Commissioners Concerning Part Two of the First Instalment of Individual Claims for Damages Above US$100,000 (Category 'D' Claims)" (S/AC.26/1998/3).

4/ See also paragraph 8 of Governing Council decision 7 (S/AC.26/1991/7/Rev.1) which provides that "[s]ince ... [category D] claims may be for substantial amounts, they must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss". See also articles 35(1) and (3) of the Rules.

5/ S/AC.26/Dec.47 (1998) and S/AC.26/Dec.49 (1998).

6/ S/AC.26/2000/11

7/ S/AC.26/2000/11, at paragraphs 66 and 67.

8/ S/AC.26/1999/24, at paragraph 63, and at paragraphs 74-77.

9/ S/AC.26/2000/11, at paragraph 63. To date, the Panel has found that exceptional circumstances exist only in the case of large building projects.

10/ S/AC.26/2000/11, at paragraph 60(d). The Panel has found that insufficient financial resources to undertake repairs is not sufficient reason to waive application of the discount factor.

11/ The compensability of personal property loss arising from invalid Kuwaiti currency was discussed in chapter III, paragraphs 26-29 of the report for part two of the second instalment (supra note 2).

12/ S/AC.26/1998/11, at paragraph 105, and S/AC.26/1998/15, at paragraph 21.

13/ See paragraph 21 of the "Report and Recommendations Made by the Panel of Commissioners Concerning Part One of the Fourth Instalment of Individual Claims for Damages Above US$100,000 (Category 'D' Claims)" (S/AC.26/1999/21).

14/ Paragraph 1 of decision 16 (S/AC.26/1992/16) states that "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award." See also paragraphs 64-65 of the report for part one of the first instalment (supra note 2).

15/ Article 41 states that:

"1) Computational, clerical, typographical or other errors brought to the attention of the Executive Secretary within 60 days from the publication of the decisions and reports, will be reported by the Executive Secretary to the Governing Council.

2) The Governing Council will decide whether any action is necessary. If it is determined that a correction must be made, the Governing Council will direct the Executive Secretary as to the proper method of correction."

16/ S/AC.26/1999/9.

17/ S/AC.26/1999/20.

18/ Various corrections to category "C" claims were approved in the Eighth Report of the Executive Secretary Pursuant to Article 41 of the Provisional Rules For Claims Procedure (S/AC.26/1999/25), the Ninth Report of the Executive Secretary Pursuant to Article 41 of the Provisional Rules For Claims Procedure (S/AC.26/2000/10) and the Tenth Report of the Executive Secretary Pursuant to Article 41 of the Provisional Rules For Claims Procedure (S/AC.26/2000/14).

Annex

SUMMARY RECOMMENDATIONS OF THE SEVENTH INSTALMENT OF CATEGORY "D" CLAIMS

Submitting entity	Amoun claimed (USD)	Number of claims recommended	Number of claims not recommended for payment or (deferred) a/	Amount of compensation (USD)
Canada	75,950.00	1	-	36,850.00
Egypt	989,798.74	2	2	159,398.43
France	374,190.29	1	-	149,458.51
Germany	202,904.74	1	1	1,955.14
India	8,085,756.22	31	21	840,347.11
Italy	583,734.43	2	-	271,403.90
Jordan	4,885,465.81	8	2(6)	916,449.17
Kuwait	184,246,144.63	449	42(6)	127,725,246.22
Lebanon	168,525.95	1	-	130,940.18
Pakistan	530,847.75	2	-	74,124.45
Sudan	415,388.13	2	-	28,319.88
Sweden	558,222.08	1	-	216,425.65
Syrian Arab Republic	160,670.00	-	1	0.00
United Kingdom	5,295,690.50	8	3 b/	756,849.94
United States of America	958,205.84	5	1(1)	369,240.92
UNHCR Canada	394,103.81	1	1	5,069.16
Total	207,925,598.92	515	74(13)	131,692,078.66

a/ Numbers in parentheses represent claims that have been deferred for reasons set out in paragraph 37 of the report.

b/ Includes one withdrawn claim.